



# IDAHO DEPARTMENT OF HEALTH & WELFARE

## Frequently Asked Questions Related to New Daycare Licensing Standards

**Question:** Why is the Department of Health and Welfare making these changes to daycare standards?

**Answer:** The current daycare law has not had any significant changes since the early 1980's. During the 2009 Legislative Session the Legislature passed Senate Bill 1112 to make improvements in daycare regulation. The new law was supported by providers, child care experts and other stakeholders with an interest in quality daycare services.

**Question:** What are the major changes in the new law?

**Answer:** The new law strengthens the criminal history and background check standards and expands the pool of individuals required to have a check, specifies the content of health and safety inspections, including water features and gun safety, and establishes staff to child ratio and group sizes. *The new law also requires licensure for all providers caring for seven or more children for compensation.*

**Question:** I heard the Legislature rejected the Department's rules for daycare licensing during the session. What does this mean and how will the Department enforce the new law without rules?

**Answer:** The daycare licensing rules were rejected by the House Health and Welfare Committee. The rules were rejected because there was intent to make changes to the law. However, the House did not take any action to change the law leaving the Department without rules to help clarify and enforce the law.

The Department will bring rules (similar to those that were rejected) to the Board of Health and Welfare and request they be approved as temporary rules in May. *With the Board's approval we will use the temporary rules to enforce the law beginning July 1, 2010.* We will once again bring the rules to the legislature for approval during the next session.

The Department is currently enforcing those aspects of the law that are well defined including licensing group daycare facilities and water hazard and weapon safety.

**Question:** Providers and parents expressed a great deal of concern regarding the changes to the staff to child ratio and the maximum group size standards in the new law. What action did the Department take regarding this issue and what will the ratio and group size standards be as of July 1, 2010?

**Answer:** The Department worked very hard to communicate the issues that the provider community and parents had regarding staff to child ratio and maximum group size. We feel we provided alternative standards that would have ensured the health and safety of children while maintaining affordability for parents and profitability for providers however the legislature chose to take no action to make these changes.

The Department will enforce staff to child ratio and maximum group size standards that reflect the intent of Senate Bill 1112. ***Please see Attachment A for the staff to child ratio and group size standards that will be enforced as of July 1, 2010 upon approval from the Board of Health and Welfare.***

**Question: I was informed that I can not apply for or renew my daycare license at my local Health and Welfare Office. Where can I get more information about this change? Can I still get a criminal history background check done at my local office?**

**Answer:** The Department has consolidated all daycare licensing provider management functions into one central location. We are contracting with the Idaho Association for the Education of Young Children (also known as IdahoSTARS Vendor Specialists) to help providers navigate this new process and collect all licensing paperwork. The Department made this change in an attempt to standardize the licensing process across the State and eliminate duplication of effort for those providers who are licensed daycare facilities and ICCP approved providers.

For more information on the paperwork required to apply for or renew a daycare license you can call the 2-1-1 Idaho Careline or visit the 2-1-1 website at: [www.idahocareline.org](http://www.idahocareline.org). To find locations or make an appointment for a criminal history background check please call 1.800.340.1246 or 208.332.7990 or visit the website at: <https://chu.dhw.idaho.gov/>.

**Question: How do I schedule a health and safety inspection for my facility?**

**Answer:** Once you have cleared the criminal history background check and completed all the required application or renewal paperwork Idaho AEYC will make a referral for the health and safety inspection to the health district. The health district will contact you to arrange collection of the licensing fee and schedule your inspection. ***The inspection will not be completed until you have paid the licensing fee.***

Providers should be aware that unannounced health and safety inspections can occur at any time. The Department has contracted with the Health Districts to conduct unannounced and random health and safety inspections. This can also occur when the Department receives a health and safety related complaint.

**Question: Do I still need a fire inspection from the local fire marshal if I am applying for or renewing a daycare license?**

**Answer:** Yes. A fire inspection from your local fire marshal (fire department) is still required. The fire department will do an inspection based on the rules for daycare facilities. There may be other city fire ordinances that a provider will need to be in compliance with before a daycare license can be issued. The fire safety inspection is separate and apart from the health and safety inspection. A provider must provide proof that their facility or home has met all fire safety standards required before a health and safety inspection will be conducted.

Your local fire official may charge you a fee of up to \$25 for the daycare fire inspection needed for state licensing. A provider will need to pay for the fire inspection at the time it is conducted or as required by the fire marshal. Any fees paid for the fire inspection will be deducted from the licensing fee. For example, if an owner of a daycare center pays the fire department \$25 for a State daycare licensing fire inspection this will be deducted from the licensing fee. The owner is now responsible for paying \$150, the difference of the \$175 licensing fee and \$25 fire inspection fee.

You can access a copy of the fire inspection checklist used for the State daycare fire inspection by clicking on the following link: <http://www.doi.idaho.gov/SFM/daycare.doc>

ICCP providers who are exempt from State licensing do not need a fire inspection from the local fire marshal but will need to be in compliance with ICCP rules and any local ordinances as required by the city or county. Providers are encouraged to check with their local officials for more information.

**Question: How long will it take to get my license or complete the renewal process?**

Answer: This depends on how quickly and accurately you complete the licensing paperwork and fulfill the other requirements. It is important that you turn in everything that the Department needs to approve your license, complete the criminal history background check and pay the licensing fee in a timely manner. The Health District has 30 days to complete the health and safety inspection once the fee is collected. The process from beginning to end should not take more than 60 days however this is a new process and we ask for your patience.

**Question: Do I have to count my own children when determining if I need a license and in ratio and group sizes?**

Answer: Yes. For State licensing purposes, a child is a child (a child is defined as a person less than thirteen years of age). When a provider accepts compensation for the care of a child they are responsible for determining if they will need a daycare license.

Any provider caring for 7 or more children and accepting compensation for even one of these children must be licensed by the State (unless licensed by a city or county that is exempt from State licensing standards). For example, a mother with 4 of her own children who agrees to care for her neighbors 3 children for compensation must obtain a State license as she is caring for a total of 7 children. A mother with 4 of her own children caring for 1 other child for compensation would not need a license as she is only caring for 5 children.

The State has always required that a provider's own children be counted when determining compliance with ratio and group size. This is not a change but we recognize that this has not been strictly enforced in the past. With the responsibility of enforcing ratio and group size being clearly delegated to the Department we will be strictly enforcing this requirement on July 1, 2010. There is more information on this in the following questions.

**Question: Are there exclusions to State licensing?**

Answer: Yes. The following exclusions apply to State licensing:

The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily in the business of daycare;

The operation of a private school or religious school for educational purposes for children over four years of age, or a religious kindergarten;

The provision of occasional care exclusively for children of parents who are simultaneously in the same building;

The operation of day camps, programs and religious schools for less than twelve weeks during a calendar year or not more often than once a week;

The provision of care for children of a family within the second degree of relationship (father, mother, step-father, step-mother, grandparents and their spouses, uncles and aunts and their spouses, first cousins and their spouses, nephews and nieces and their spouses, brothers and sisters and their spouses).

**Question: I operate a pre-school. Do I need a state daycare license?**

Answer: The Department will evaluate a “pre-school” program based on the following criteria to determine if a state daycare license is needed:

- 1- Does the program include the care for children three years of age or younger?
- 2- Is the duration of care four hours or more for any individual child in any one day during a calendar week (a calendar week means Sunday through Saturday)?
- 3- Does care include the diapering of children?
- 4- Does the care include the preparation or serving of meals (excluding snacks)?
- 5- Does the program accept child care subsidy funds (ICCP)?

*If you answered “yes” to any one of these questions you are not considered a “pre-school” program and may be required to have a state daycare license.* Please remember that you could have local city or county ordinances related to the operation of a pre-school or daycare. Please check with your local officials for more information.

**Question: What if my city has daycare licensing requirements? As a provider do I need a State and city license?**

Answer: If a city or county has adopted an ordinance for regulation and/or licensing of daycare services then the State law does not apply unless the ordinance is repealed. A provider in a city or county with its own ordinance is not required to be licensed by the State. Some cities require that providers be licensed by the State. Please check with your local city offices for more information.

**Question: Do Idaho Child Care Program (ICCP) providers have to meet these new State licensing standards?**

Answer: Yes. ICCP providers must meet the State licensing standards and be in compliance with the ICCP rules. ICCP providers who are required to be licensed by the State will need to show proof of licensure when they renew their ICCP provider agreement.

ICCP providers who are exempt from licensing or are relative providers will need to comply with the new health and safety standards as outlined in Idaho Code 39-1109. The most notable changes include the standards for water hazards including pools, ponds, hot tubs, etc and new requirements for the storage of firearms.

**Question: As a provider I am confused about the requirements related to how many children I can have enrolled verses in attendance. Can you please explain the difference and how this will be managed?**

Answer: The Department has defined “attendance” as the number of children present at a daycare facility. The Department will compare the number of children in attendance with the number of staff providing direct supervision to those children when determining a provider’s compliance with staff to child ratio.

The Department will determine the type of license (group, center, or family) based on the maximum number of children a provider plans to have in attendance at any point in time during business hours as well as the occupancy load determined by the local fire

inspector. If a provider does not plan to care for more than 12 children at any time they will be licensed as a group facility. Those caring for 13 or more children will be licensed as a center.

A provider can have as many children as they would like enrolled in their daycare. We understand that providers may have multiple part-time children enrolled. For example, a group provider may have 14 children enrolled in their daycare but never has more than 12 children in attendance at any time.

**Question: Can you please explain the requirements for Criminal History Background Checks?**

**Answer:** All owners, operators and staff of a daycare facility who have direct contact with children **and** all other individuals 13 years of age or older who have unsupervised direct contact with children **and** those who are regularly on the premises (more than 12 hours a month) of a daycare facility are required to have a criminal history background check conducted by the Department of Health and Welfare.

If an individual who is required to have a criminal history background check has not completed and cleared a fingerprint-based background check through the Department's Criminal History Unit they will need to do so before a license will be issued or before they can work or volunteer at a daycare facility.

If an individual has completed and cleared a background check through the Department in the 12 months prior to application or renewal they will not need a new check. The Department will verify that the check was clear.

If an individual's background check through the Department was conducted after January 1, 2005 **and they have maintained residence in the State of Idaho** then an Idaho State Police (ISP) name-based background check must be completed. This consists of completing the ISP name-based criminal history check application and mailing it to ISP in Meridian along with the \$10 fee. It can take up to 45 days for the results of the ISP check to be completed. The Department will also do a check of the Idaho Child Abuse Central Registry. The Department, at its discretion, can issue a provisional license to an owner during this time.

If an individual's background check through the Department was conducted prior to January 1, 2005 then a new fingerprint-based criminal history check through the Department must be completed.

A child **under the age of 13** is not required to have a Criminal History Background Check or a Juvenile Justice Check.

A child 13 years of age or older must complete a Department of Health and Welfare Criminal History Check and a check of all juvenile justice records in all the counties that the child has lived from the age of 13 through the age of 17. The child's parent is responsible for initiating these checks and for the costs associated. The form used for juvenile justice checks can be obtained by calling 2-1-1 and should be returned to the IdahoSTARS Vendor Specialists.

**Question: How will the Department enforce the requirement that providers caring for 4 to 6 children complete and clear a Department of Health and Welfare Criminal History Background Check? How will the Department identify those providers that must meet this requirement?**

Answer: The Department has not been given the authority to enforce this requirement in the new law. Family daycare home providers are not required to be licensed therefore we do not have any jurisdiction over these providers. We also do not have any way of identifying these providers unless we receive a complaint. We can investigate a complaint and confirm if the provider is in violation of the law. In those instances where we confirm a provider is operating illegally, we will make a referral to the local prosecuting attorney who is responsible for enforcing the law at the local level.

**Question: What are the fees related to State licensing, what do they pay for and when will they go into effect?**

Answer: The licensing fee covers a provider's fire inspection (if the local fire marshal charges a fee), health and safety inspection and the administrative costs associated with daycare licensing. Providers and/or employees will be responsible for all fees associated with criminal history and background checks and juvenile justice checks.

***Licensing fees are set as follows and will be in effect July 1, 2010:***

Family Providers (1-6 children) (voluntary licensing) - \$100.00

Group Providers (7-12 children) - \$100.00

Center Providers (13 or more children) - \$175.00

***All providers applying for a license on or after July 1, 2010 will be required to pay the licensing fee. All providers whose licenses expire on or after July 1, 2010 will be required to pay the licensing fee.***

**Question: I am currently a State licensed daycare provider. When do I have to be in compliance with these changes?**

Answer: ***After July 1, 2010 providers will be expected to be in compliance with the law and rules regardless of the date that their license was issued.*** The Department will use renewal dates as the opportunity to verify a provider's alignment with the standards. The Department will also investigate complaints related to the new standards and will work with providers to help them come into compliance.

**Question: Where can I find out what is included in the new code and the proposed rules?**

Answer: The link below will take you to Title 39, Chapter 11, Idaho Code related to daycare licensing: [www.legislature.idaho.gov/idstat/Title39/T39CH11.htm](http://www.legislature.idaho.gov/idstat/Title39/T39CH11.htm)

A copy of the rules will be available in May.

**Question: How can I file a complaint or concern regarding a daycare provider?**

Answer: The Department of Health and Welfare has designated the 2-1-1 Idaho Careline as the single point of entry for daycare complaints in Idaho. 2-1-1 will accept the call and then route the investigation of the complaint to the proper authority.

**Question: Who can I contact if I have further questions?**

Answer: Please contact the Idaho Careline by dialing 2-1-1 if you have questions.



**Attachment A**  
**Staff:Child Ratio and Maximum Group Size Requirements**

The department will determine the maximum allowable ratio of children to staff and maximum group size in accordance with the following tables:

**Daycare Centers**  
**Staff:Child Ratio and Maximum Group Size**  
**Based on Age of Youngest Child in Attendance**

<b>Ages and Counts Based on Age of Youngest Child</b>	<b>Staff:Child Ratio</b>	<b>Maximum Group Size</b>
A child or children birth to two (2) years of age	1:6 or 2:12	12
All Children at least two (2) years of age	1:8 or 2:16	16
All children at least three years of age	1:10 or 2:20	20
All children at least four years of age	1:12 or 2:24	24
All children at least five years of age	1:18 or 2:36	36

**Group Daycare Facilities & Family Daycare Homes (voluntarily licensed)**  
**Staff:Child Ratio and Maximum Group Size**  
**Based on Age of Youngest Child in Attendance**

<b>Ages and Counts Based on Age of Youngest Child</b>	<b>Staff:Child Ratio</b>	<b>Maximum Group Size</b>
No child or children under the age of two (2) years	1:12	12
One (1) or two (2) children under the age of two (2) years	1:10	10
	2:12	12
Three (3) or more children under the age of two (2) years	1:9	9
	2:12	12

The ratio of children to staff and maximum group size in mixed age groups shall be determined by the age of the youngest child in attendance.

Each adult staff member who is providing direct care for a child or children shall be counted by the department as one (1) staff member for the purposes of counting the number of staff on-duty and for determining compliance with staff:child ratio.

Each staff member sixteen (16) and seventeen (17) years of age under the supervision of an adult staff member, when providing direct care for a child or children, may be counted by the department as one (1) staff member for the purposes of counting the number of staff on-duty and for determining compliance with staff:child ratio.

Each child shall be counted by the department as one (1) child for purposes of counting the number of children in attendance and for determining compliance with child-staff ratio.

Staff:child ratios and maximum group sizes must be maintained at all times during all hours of operation when children are in attendance and when transporting children. Staff:Child ratio must be maintained during outdoor play and the Department is in the process of better defining policies around compliance with maximum group size during outdoor play. Providers are encouraged to contact their local Child Care Resource & Referral Office through IdahoSTARS to acquire information and ideas on how to maintain group size and ensure the health and safety of children during outdoor play.

Daycare centers that mix age groups and/or combine classrooms must maintain staff:child ratio and maximum group size based on the age of the youngest child in attendance.